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May 19, 2000

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FEDERAL COMMUNICATIONS COMMISSION
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VIA HAND DELIVERY

Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II
445 12th Street, S.W., Suite TW-A325
Washington, D.C. 20554

Re: CC Docket No. 99-200; Comments of RCN Telecom Services, Inc.

Dear Secretary Salas:

On behalf of RCN Telecom Services, Inc. ("RCN"), enclosed please find an original and four (4) copies of RCN's comments in the above-referenced docket. Please date stamp and return the enclosed extra copy. Concurrent with this filing, RCN is submitting a copy on diskette to the Network Services Division.

Should you have any questions with respect to this matter, please do not hesitate to call Ron Del Sesto at (202) 945-6923.

Respectfully submitted,

Ronald W. Del Sesto Jr.

Ronald W. Del Sesto, Jr.

Enclosure

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FEDERAL COMMUNICATIONS COMMISSION
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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 99-200
Numbering Resource Optimization	)	
	)	

COMMENTS OF RCN TELECOM SERVICES, INC.

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Dated: May 19, 2000

Counsel for RCN Telecom Services, Inc.

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SUMMARY

RCN commends the Commission for recognizing the importance of allocating telephone numbering resources efficiently and in a competitively neutral manner. While numbering resources are becoming more scarce for a variety of reasons, it is important for the Commission to proceed carefully in determining whether to charge carriers for numbering resources.

RCN opposes the implementation of any pricing scheme for numbering resources. The Further Notice states that carriers opposed pricing for numbers on economic grounds primarily because numbering resources were allocated in 10,000 blocks rather than 1,000 blocks. RCN submits that even charging for numbering resources in 1,000 blocks will unfairly burden new market entrants. CLECs face substantial costs in attracting end-users, building networks and complying with state and federal regulatory requirements. There is no simply way to implement a pricing system that protects carriers with limited access to capital.

The Commission fails to note that there are many other grounds for opposing pricing for numbers. For example, the FCC hypothesized that since numbers are administratively allocated rather than sold leads to inefficiencies in the allocation process. However, carriers incur a great deal of cost before they are in a position to request numbers. Also, such a premise throws into question any of the administrative measures currently implemented at the federal and state level and suggests that all regulation should be removed.

Finally, the FCC states that absent any distortions in the market, pricing for numbers will be competitively neutral. The reality of the telecommunications market is subsidy, regulation and

distortion. Perhaps if the FCC and the state commissions were to completely deregulate the telecommunications market, then pricing for numbering resources may impact all carriers equally. Until such time, ILECs will be the only beneficiaries.

Before the
Federal Communications Commission
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In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	

COMMENTS OF RCN TELECOM SERVICES, INC.

RCN Telecom Services, Inc. ("RCN"), by undersigned counsel, hereby files its Comments regarding the Federal Communications Commission's ("FCC's" or "Commission's") Further Notice of Proposed Rulemaking ("Further Notice") in the above-referenced proceeding.[1]

I. INTRODUCTION

While RCN does not agree with all of the number conservation measures adopted by the Commission in its Report and Order in this proceeding, RCN commends the FCC for recognizing the importance of allocating telephone numbering resources efficiently and in a competitively neutral manner. As expressed by RCN in previous pleadings, numbers need to remain accessible to carriers seeking to enter the local exchange market if facilities-based competition is to take root throughout the market. Thus, the Commission must proceed cautiously in this effort when assessing the benefits obtained by requiring carriers to pay for numbering resources.

[1] *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, rel. March 31, 2000.

II. PRICING FOR NUMBERING RESOURCES WILL STIFLE COMPETITION IN THE LOCAL MARKET

RCN opposes the implementation of a pricing scheme, either as a stand alone approach, or as part of the other administrative and numbering optimization methods adopted in the Report and Order, or as considered by the Further Notice.[2] The Commission states that the "primary economic reason" that many commenters opposed pricing for numbers was that numbering resources are allocated "in 10,000 blocks by rate center" and that pricing under this system would create a barrier to entry to new markets.[3] Imposing costs for numbers creates an additional market barrier for new entrants *even if the numbers are sold in blocks of 1,000 as opposed to blocks of 10,000.* New entrants already face substantial costs in attracting end-users, building networks and complying with regulatory requirements. Furthermore, the FCC and the state commissions are in the process of designing a comprehensive scheme to implement a nationwide number conservation plan. The relationship of pricing for numbers with this new regulatory framework is left unstated. Will the FCC and the state commissions forbear from regulating the number allocation process if a pricing scheme is imposed, or will pricing for numbers become an additional burden imposed on carriers? If it is the latter, how do you insure that the interest of smaller carriers are well protected without imposing another layer of convoluted regulation? In short, in order to implement a market based approach for the pricing of numbering resources, the Commission will have to revisit its current regulation of numbering allocation as well as reassess the various regulatory frameworks implemented at the state level. This would have to be undertaken before the impact of new regulatory framework will have been assessed. Furthermore, the Commission would have to protect

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[2] *See id.* at ¶ 250.

[3] *Id.* at ¶ 251.

the interest of smaller carriers by insuring that numbers do not simply go to carriers that possess the greatest capital. Until the market share of monopoly providers is eroded significantly, any pricing scheme for numbering resources will only benefit incumbents.

III. PRICING FOR NUMBERING RESOURCES IS BASED ON FLAWED REASONING

In its Further Notice, the Commission failed to note that there are grounds other than the availability of 1,000 blocks for opposing the pricing for numbers. The Commission suggested that since numbers are "administratively allocated rather than sold," carriers inefficiently utilize a resource that is rapidly becoming scarce.[4] Efficient utilization is, of course, the rationale for the Commission's newly adopted, comprehensive regulatory scheme. For the inefficiencies associated with administrative allocation to serve as one of the reasons to implement a "market based" system for the allocation of numbering resources is simply wrong. The Commission is ignoring the fact that carriers incur a great deal of cost before they are in a position to request numbers. For instance, carriers incur significant costs in obtaining certification from state commissions, in obtaining interconnection agreements with incumbent providers and in complying with federal and state regulations. A carrier must have completed all of these steps, and have designed its network and purchased the necessary facilities to provide service, in order to request numbering resources under the new rules contained in the Report and Order.

The FCC also suggested that costs for numbers should be weighed against the societal cost of the current allocation system and that the pricing of numbers, so long as there are no distortions in the market, would be competitively neutral.[5] However, distortions are the norm in the

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[4] *See Numbering Resource Optimization*, CC Docket No. 99-200, Notice of Proposed Rulemaking, rel. June 2, 1999, at ¶ 226.

[5] *See id.* at ¶ 230.

telecommunications market. There already exists a system of historical monopoly and subsidies whereby different classes and types of users subsidize telecommunications services for others. Perhaps if the telecommunications market were completely deregulated on both the federal and state level, then economic theories about competitively neutral prices for numbers would actually work in practice and not simply in theory, but this is not the case. ILECs and other well-capitalized businesses will be the only benefactors of such a regime. RCN believes that any implementation of pricing options will necessarily favor monopoly providers over new entrants and benefit well-capitalized companies over those with more limited access to capital. The net effect of market-based pricing system for numbering resources will provide incumbents with still another means of restricting competitors' entry to the market. RCN recommends that the Commission focus its efforts on implementation of the other number conservation methods adopted in its Report and Order and that the Commission defer any consideration of pricing options until such time as the FCC, the state commissions and the industry are able to evaluate how effective the current number conservation scheme is in preserving numbering resources.[6]

IV. CONCLUSION

RCN commends the Commission for addressing many aspects of number scarcity in its Report and Order. Since the regulatory framework for the allocation of numbering resources has not yet been implemented, it is impossible to tell whether other measures are required. RCN recommends that the FCC allow its proposed regulatory framework to operate prior to adopting radical new initiatives such as pricing for numbering resources. Charging carriers for such resources

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[6] The Commission should note that nearly all of the parties addressing the issue of "pricing options" in their initial comments were opposed to the imposition of any fees for the use of numbering resources. Opponents cited a number of legal and policy arguments in opposition to either administratively-set or market-based fees. *See* AirTouch at 25; AT&T at 63; Connect at 18; MCI at 48-49; MediaOne at 30-31; Nextlink at 21; Omnipoint at 32; RCN at 15; Time Warner at 22-23; WinStar at 39-41. Even parties that considered pricing for numbers as a viable option noted that numerous issues would need to be resolved in order to implement such a regime. *See* California PUC at 39-43.

will increase market barriers for new entrants and benefit only incumbents. Competition in the local telecommunications market is still in its infancy and entrepreneurial companies are at a great disadvantage particularly in the area of access to capital. Imposing more costs on new entrants threatens to further weaken the ability of CLECs to penetrate the "last mile" of the telecommunications market. Furthermore, the reasons proposed by the Commission for pricing of numbering resources are fundamentally flawed. While presently there may be no charge for carriers to obtain the actual numbers, new entrants face many costs in acquiring certification, interconnection and in complying with ever-expanding regulatory requirements prior to obtaining numbers. Finally, the telecommunications market remains subsidy-ridden. These imbalances and subsidies distort any potential for a truly competitive marketplace for numbering resources.

Respectfully submitted,

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Dated: May 19, 2000.

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